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From: Director, Naval Intelligence Activity
To: Naval Intelligence Leadership

Subj: NAVAL INTELLIGENCE DEPARTMENT OF THE NAVY DEFENSE CIVILIAN
INTELLIGENCE PERSONNEL SYSTEM ISSUANCE

Ref: (a) Naval Intelligence Defense Civilian Intelligence Personnel System Forward
of 23 Jul 14

1. The purpose of this memo is to publish additional Naval Intelligence Department of Navy (DON) Defense Civilian Intelligence Personnel System (DCIPS) policy. This DON DCIPS Chapter implements civilian personnel policy, delegates the authority and assigns the responsibility for the management of civilian employees appointed under Section 1601 of Title 10, United States Code (10 USC 1601).
2. The Naval Intelligence Employee Grievance, Chapter 14, applies to all DON organizations managing DON civilian employees appointed under 10 USC 1601. This DON DCIPS Chapter is effective immediately.
3. This policy has been formally coordinated and collaborated as required per reference (a).

A handwritten signature in black ink, appearing to read "Sandra I. Brown", is positioned above the printed name.

SANDRA I. BROWN
Acting

Copy to:
NIA-HC



Chapter 14 – Employee Grievance Procedures

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REFERENCES

- (a) Section 1601 of Title 10, United States Code
- (b) SECNAVINST 12900.2A, "Department of the Navy Defense Civilian Intelligence Personnel System (DCIPS)," February 8, 2013
- (c) DOD Instruction 1400.25-V2014, "DoD Civilian Personnel Management System: Defense Civilian Intelligence Personnel System (DCIPS) Employee Grievance Procedures," March 20, 2012
- (d) SECNAV Instruction 12771.2, "Department of the Navy Administrative Grievance System," July 30, 2010
- (e) Naval Intelligence Defense Civilian Intelligence Personnel Systems (DCIPS) Manual, July 25, 2014
- (f) DOD Instruction 5145.05, "Alternative Dispute Resolution (ADR) and Conflict Management," May 27, 2016
- (g) DOD Regulation 5400.11-R, Department of Defense Privacy Program, May 14, 2007

1. **PURPOSE.** To establish policy and implement guidance for managing grievance procedures and requirements for Department of Navy (DON) employees covered by the Defense Civilian Intelligence Personnel System (DCIPS). This chapter establishes core principles for employee grievances in accordance with references (a) through (g) for use and implementation by organizations managing DON DCIPS employees hereinafter referred to as the "Entities with DON DCIPS positions (EDDPs)."

2. **APPLICABILITY.**

2.1. This chapter applies to all DON Intelligence and Intelligence Support employees who have been appointed under the Defense Civilian Intelligence Personnel System (DCIPS), Section 1601 of Title 10, United States Code, as described in references (a), (b) and (c).

2.2. This chapter does not apply to members of the Defense Intelligence Senior Executive Service (DISES) or the Defense Intelligence Senior Level (DISL) unless specifically addressed in corresponding DCIPS Chapters.

2.3. This chapter does not apply to employees covered by the Federal Wage System or equivalent, non-appropriated fund employees, or foreign national employees employed under an authority other than DCIPS.

3. **POLICY.** It is Naval Intelligence (NAVINTTEL) policy that EDDPs shall consider and quickly resolve all matters and disputes presented to them equitably and impartially. All persons involved in the dispute resolution process shall be free from restraint, interference, coercion, discrimination, or reprisal.

4. **RESPONSIBILITIES.**

4.1. The Director, Naval Intelligence Activity (DNIA) shall:

4.1.1. Establish strategic direction, provide overall program application, and approve operational framework for the administration of the DON DCIPS employee grievance policy and program as appropriate.

4.1.2. Develop DON DCIPS regulations and implementing guidance, monitor compliance with this chapter and internal implementing guidance, and respond to reporting requirements established by the Under Secretary of Defense for Intelligence USD (I).

4.1.3. Delegate authority as appropriate to implement this chapter within DON.

4.2. The Naval Intelligence Chief Human Capital Officer (CHCO) shall:

4.2.1. Ensure the implementation of DON DCIPS employee grievance processes and procedures are compliant with applicable DCIPS policy and guidance.

4.2.2. Coordinate the review and decision made on all DON DCIPS employee formal grievances with the Head of Entities with DON DCIPS Positions (EDDPs).

4.3. The Heads of Entities with DON DCIPS Positions (EDDPs) shall:

4.3.1. Decide all formal grievances filed by employees in their Command/Activity or delegate authority to a subordinate manager.

4.3.2. Encourage their managers and supervisors to resolve matters raised by the employee informally in accordance with this guidance.

4.3.3. Coordinate with the Civilian Intelligence Personnel Office (CIPO) in the identification of employee administrative grievances resulting from requirements of national security operations and are not addressed in DCIPS policy.

4.4. The Deciding Official shall:

4.4.1. Review and resolve all disputes impartially and in a timely manner.

4.4.2. Decide whether to consolidate similar or identical grievances.

4.4.3. Decide whether to conduct an investigation.

4.4.4. Appoint an individual to conduct an investigation of the formal grievance.

4.4.5. Decide whether to allow the grievant to request representation, pursuant to subparagraph 6.1.5 of this chapter.

4.4.6. Allocate the amount of official time granted to the employee and the employee's representative, if covered under the DON DCIPS, and are in a duty status.

4.4.7. Make a decision on the merits of the grievance that is final and not subject to further review, except when a grievance is cancelled pursuant to subparagraph 6.3.10 of this chapter.

4.4.8. Serve in a position at an organizational level higher than the DON DCIPS employee involved in the grievance.

4.4.8.1. If the Deciding Official was previously involved in the matter being grieved, or otherwise has a direct interest, refer to the next highest official (i.e. Deputy) to serve as the Deciding Official. Any person who has been involved in the matter being grieved and/or occupies a position that is subordinate to any official who recommended, advised, decided on, or who otherwise is or was involved in the matter being grieved, may not be appointed to investigate the grievance. This person may be an employee of the Command/Activity, an employee of another Command/Activity, or an individual contracted for this purpose.

5. GRIEVABLE MATTERS. Employees may present grievances relative to any employment matter except for:

5.1. The content of regulations and policy of the DON.

5.2. The content of position alignment (classification) and qualification standards.

5.3. The substance of an employee's performance elements, standards, or performance objectives.

5.4. A rating or reviewing official's determination of ratings against performance objectives and elements. DCIPS evaluations of record may be challenged through the administrative reconsideration process described in DON DCIPS Chapter 11, reference (e).

5.5. Adverse performance, or conduct-based actions (such as letters of counseling and caution, reductions in work level, reductions in pay, suspensions of more than 14 calendar days, furloughs of 30 calendar days or less, or removal). Such actions, if applicable, are appealable under the administrative grievance procedures in accordance with DON DCIPS Chapter 9, reference (e).

5.6. Non-selection for a position or promotion as a result of an approved candidate evaluation process, or failure to receive a noncompetitive assignment or promotion.

5.7. Determinations concerning additional compensation including the denial or non-receipt of monetary and non-monetary awards, performance-based payouts, recruitment or relocation bonuses, retention incentives or allowances, additional pay allowances or differentials, critical position pay, or dual compensation waivers.

5.8. Any matter already the subject of a formal review and adjudication by an internal or external authority, or any matter that the employee has filed under another review or reconsideration procedure or dispute resolution process within the DON.

5.9. Preliminary notice of an action that, if executed, would be covered under the grievance system or be the subject of formal review and adjudication by an internal or external authority.

5.10. Any action taken under a voluntary, formal agreement entered into by an employee involving geographic relocation or return from an overseas assignment.

5.11. Termination of an employee during a trial period.

5.12. Termination or expiration of a term or temporary appointment on the date specified (or earlier date) as a condition of employment at the time the appointment was made.

5.13. Any action taken under Adjustment in Force (AIF) proceedings. Employees may file appeals of AIF actions in accordance with DON DCIPS Chapter 4 to the procedures in reference (e).

5.14. Any action taken pursuant to national security requirements including determinations regarding eligibility for access to classified, compartmented, or other controlled access information, including removal procedures taken under Section 1601, Title 10, reference (a).

5.15. Any additional exclusion requested by an EDDP and approved by the USD(I).

5.16. The terms of any mediated agreement resulting from an Alternative Dispute Resolution (ADR).

5.17. A grievant may use the administrative grievance procedures for challenging the final rating of record when the complaint involves prohibited personnel practices, or protections against whistleblower reprisal.

6. PROCEDURES.

6.1. Requirements. The EDDPs shall establish an employee grievance procedure that includes the following elements:

6.1.1. A provision establishing the right for all employees to present grievances to the appropriate authority for prompt and equitable consideration without fear of restraint, interference, coercion, discrimination, or reprisal.

6.1.2. A list of subjects that may not be grieved (see paragraph 5).

6.1.3. An ADR program which uses problem solving, mediation, facilitation, conciliation, early-neutral evaluation, fact-finding, settlement conferences, and/or peer review techniques to resolve conflicts and arrive at mutually satisfactory solutions consistent with the requirements of this chapter and DOD Instruction 5145.05, reference (f). To the extent permitted by national security concerns, DON should use existing Government ADR resources to avoid unnecessary expenditure of time and money on administrative proceedings or litigation. Any agreement resolving the matter through ADR must be in writing and reviewed by the servicing legal counsel prior to finalization.

6.1.4. Employee Coverage. This regulation applies to all DON employees covered under DCIPS except for:

6.1.4.1. An applicant for employment who does not meet the definition of an employee as defined in paragraph 2 of this chapter.

6.1.4.2. Employees who have not completed a two-year DCIPS probationary trial period under an initial appointment in accordance with DON DCIPS Chapter 5 of reference (e).

6.1.5. Employees are entitled under the DON DCIPS employee grievance procedures to present grievances. Employees may represent themselves or be represented by someone of their choice. The choice of representative may be denied if it would conflict with mission priorities or national security, or create a conflict of interest or unreasonable costs. Employees and their representative(s) shall have full access to relevant information and shall be given copies of such information unless to do so would be unduly burdensome, (e.g., man hours or cost, or contrary to law or regulation). Employees shall be permitted a reasonable amount of official duty time, if otherwise in a duty status, to prepare and present grievances and to communicate with management and personnel officials.

6.2. Informal dispute resolution procedures. The EDDP informal disputes procedures shall include:

6.2.1. Initial Informal Problem Solving. The resolution of grievances at the lowest level of management is highly desired and encouraged. Many grievances can be resolved simply through open communication between the aggrieved employee and the person responsible for

taking the action which the employee is grieving. EDDPs shall provide for initial informal problem solving during which an employee may informally present a work-related matter to his or her immediate supervisor, or other informal procedure established by the component, before filing a formal grievance.

6.2.2. Timely Presentation of the Matter. EDDPs shall specify the timeliness for raising matters to management, considering applicable mission, geographic, and communications imperatives. Informal grievances, through verbal or written communication, should be brought to the attention of the employee's supervisor within five calendar days of the incident or knowledge of the incident. However, an employee may present a grievance regarding a continuing practice or condition at any time as long as the practice or condition is continuing at the time of the filing of the grievance. See Appendix A for a timeline for filing and obtaining a decision for grievances.

6.2.3. Timely Response to the Matter. A supervisor, or other designated official, in an EDDP's informal procedure must consider the matter raised by the employee and attempt to resolve it within 30 calendar days from the date the matter is first presented. This time may be extended by mutual consent of the parties or in exigent circumstances. Employees who do not receive a decision from the Deciding Official (i.e., supervisor or other designated official) under the informal grievance procedure or do not agree to an extension request must pursue the matter further by filing a formal grievance, in accordance with subparagraph 6.3 to continue pursuit of requested relief.

6.2.4. Third Parties. Where appropriate and feasible from a security, mission, geographic, or communications point of view, EDDPs may use a neutral party (such as a conciliator, facilitator, or mediator). A body of neutrals is available through the DOD ADR Coordinator in accordance with reference (f).

6.2.5. Documentation. Matters presented by employees and the resolution of these matters shall be documented according to established procedures. Examples of appropriate documentation include: meeting notes, emails, phone call logs, memorandum for records, etc.

6.2.6. If the grievance cannot be resolved to the employee's satisfaction through an informal process or the supervisor feels more background information is needed for resolution, the employee can file a formal administrative grievance. The formal grievance must be filed no later than 15 days from the outcome of the informal process.

6.3. Formal Grievances. Employees have the right to file formal grievances directly to the EDDPs Head designee without making an attempt to resolve the problem informally. The NIAH shall establish and maintain formal grievance procedures consistent with the provisions of reference (d) for processing employee grievances unless otherwise provided for in this chapter. The NIAH shall follow these principles in managing formal grievance programs:

6.3.1. Specificity. An employee must inform the Deciding Official, in writing, of his/her grievance, stating in concise detail the nature and scope of the grievance, the corrective action desired, and what attempts were made to informally resolve the matter.

6.3.2. Timely Filing. Failure to initiate a written grievance in a timely manner, as specified below, may be the basis for rejecting the grievance. However, review should be made

to determine whether timely filing was out of the grievant and/or representative's control based on unforeseen circumstances. See Appendix A for a timeline for filing and obtaining a decision for grievances. An employee may file a formal written grievance with the designated Deciding Official on matters not excluded under paragraph 5, if:

6.3.2.1. The matter is not resolved during the informal problem-solving process. In such instances, the employee must file a formal grievance no later than 15 calendar days from the conclusion of that procedure.

6.3.2.2. The employee chooses to bypass the informal process and invoke the formal grievance process. In such instances, the employee must present the formal grievance within 15 calendar days following the date of the act or event that the employee believes created the problem, or following the date the employee became aware of (or reasonably should have become aware of) the act or event. The employee may present a formal grievance regarding a continuing practice or condition at any time as long as the practice or condition is continuing at the time of the filing of the grievance.

6.3.3. Documentation. An employee's formal grievance must be signed, dated, and contain a detailed statement of the issue(s) and the specific personal remedy sought; copies of any documents in the employee's possession related to the grievance; and the name, address, and telephone number of the employee's representative, if any.

6.3.3.1. Copies of any documents in the employee's possession related to the grievance shall not include classified information. If review of classified information is essential to the case, the grievance shall include a statement giving the location where the classified documents may be reviewed and the clearance level required.

6.3.4. Focus. The remedy sought by the grievant in a formal grievance must be personal to the employee and may not include a request for disciplinary or other action affecting another employee. An employee may not grieve the same matter that he or she has raised in any other formal grievance, appeal, complaint, or other dispute resolution process.

6.3.5. Responsibilities of the Deciding Official shall be stated in the formal grievance processes as outlined in above in paragraph 4.4.

6.3.6. Alternative Dispute Resolution (ADR) process. The Equal Employment Office oversees ADR and may determine that a process, such as mediation, is appropriate and in accordance subparagraph 6.1.3. of this chapter and with reference (f). If an ADR process is conducted but does not resolve the grievance, the mediator will prepare a memorandum for record (MFR) stating that an ADR process was attempted during the formal grievance and was unsuccessful. The MFR will be filed in the servicing Human Resource Service Centers (HRSC) grievance file. If a grievance is accepted on its merits, and has not been resolved by the ADR process, the Deciding Official must:

6.3.6.1. Determine whether to accept the grievant's requested representative.

6.3.6.2. Consider the grievance fully and fairly and issue a written decision with supporting rationale for the decision.

6.3.6.3. Issue the decision in a timely manner and in accordance with the stipulations outlined in subparagraph 6.3.7.

6.3.7. Timely Decisions. Formal grievance processes shall stipulate the deadline for filing the formal grievance and issuing the decision. A decision should be rendered no more than 90 calendar days from the date the grievance was filed; the Deciding Official may extend the timeline in exigent circumstances (e.g., by special mission considerations, geographically dispersed participants, or where a fact-finder is used in the process), or when mutually agreed upon with the grievant.

6.3.8. Issuing a Final Decision on the Formal Administrative Grievance. The decision should include, at a minimum:

6.3.8.1. A statement of the issues(s) being grieved,

6.3.8.2. A report of background information relevant to the grievance with applicable finding or conclusions, and;

6.3.8.3. A clear decision which addresses the matter being grieved and the relief requested by the grievant.

6.3.9. Reconsideration of the Final Rating of Record. The reconsideration of the final rating of record process is the method through which an appraisal is recommended for additional review and changes after the NAVINTEL Performance Management Performance Review Authority (PM PRA) approval. This process allows an employee to request a review of their final rating of record if they believe their rating is not consistent with their demonstrated performance, or if an administrative error has occurred in the setting of their evaluation of rating. Reconsideration is the exclusive formal process for redress of an evaluation of record. An administrative reconsideration of an evaluation of record is a separate process from an administrative grievance process alleging a prohibited personnel practice or whistleblower reprisal as outlined in 6.3.3.1.

6.3.10. Cancellation Provisions. Formal grievance processes shall specify the conditions under which the Deciding Official may cancel or temporarily suspend a formal grievance or portion thereof, and shall allow for employee cancellation. The Deciding Official may determine that the matter is not grievable if it was not filed in a timely manner without good cause for delay, procedural requirements were not followed, or it is not considered a grievable matter as outlined in paragraph 5. An employee may request that an individual at the next higher management level within the DON, if any, review a decision to cancel a grievance or a portion of a grievance. The employee's request for review of a decision to cancel a grievance or a portion of a grievance must be submitted within 15 days from the date of receipt of the decision to cancel the grievance. The next higher management level, in these cases, will serve as the Deciding Official and inform the grievant of the decision in writing. The employee may also cancel his or her own grievance proceedings.

6.3.11. Grievance File. A separate file shall be established and maintained for each written formal grievance and retained for four years or as provided for in accordance with reference (g), applicable laws, regulations, and records retention schedules. The file shall

contain all documents or copies of documents related to the formal grievance. The formal grievance file will reside in CIPO and must include:

6.3.11.1. The employee's written grievance.

6.3.11.2. The written designation of representative, if any.

6.3.11.3. The written designation of the management representative, in the case of a fact-finding investigation.

6.3.11.4. The report of the findings and recommendations of the fact-finding investigation, if any.

6.3.11.5. The grievant and/or the representative's written comments on the contents of the grievance file, if any.

6.3.11.6. A written agreement, offer of, or request to use ADR to resolve the grievance.

6.3.11.7. Any applicable documents and/or findings related to the grievance or investigation (i.e. disciplinary memorandums).

6.3.11.8. Statement providing the location of the classified documents essential to the case may be reviewed and the clearance level required doing so (if applicable).

6.3.11.9. Any written settlement agreements pertaining to the grievance.

6.3.11.10. The decision issued by the Deciding Official and all applicable supporting documents.

6.4. Special Grievance Considerations.

6.4.1. Combining Grievances. When two or more employees within the same EDDPs have identical grievances (i.e., the dissatisfaction expressed and relief requested are the same; the same general set of facts, etc.), EDDPs may combine and process them as one grievance. The employees will be so notified and will be required to designate a common representative.

6.4.2. Grievances against another EDDP. An employee of one EDDP may present a grievance to the Head of another EDDP that took the action being grieved. Travel expenses and per diem are not grievable against another EDDP. The grievance will be processed in accordance with this chapter and the grievance procedures of the EDDP against which the grievance is filed.

APPENDIX A

Timeline for Informal and Formal Grievance Processes					
Informal Grievance Process		Formal Grievance Process			
Grievance must be filed within 5 days of the offense	5 days	The grievance may choose to bypass the formal process and invoke the Formal Grievance Process:	Grievance must be filed within 15 days of the offense	15 days	
A decision must be made within 30 days	30 days		A decision must be made by the deciding official within 90 days of filing the formal grievance	90 days	
If no suitable agreement is reached using the informal Grievance process, the grievant may file a formal Grievance:		Grievance must be filed within 15 days the informal Grievance Process.	15 days	The Deciding Official may extend the timeline in exigent or when mutually agreed upon with the grievant.	
		A decision must be made by the Deciding Official within 90 days of the filing the Formal Grievance	90 days		

GLOSSARY

Alternative Dispute Resolution (ADR) process. The ADR process includes the use of mediation, facilitation, or ombudsman investigation to resolve disputes instead of formal administrative proceedings or litigation.

Deciding Official. A supervisor or management official who has been delegated the authority to make a determination on a formal grievance.

Defense Civilian Intelligence Personnel System (DCIPS). Positions engaged in intelligence or intelligence-related work requiring a significant degree of specialized intelligence knowledge, skills and abilities, and those positions that serve in direct support of intelligence functions within a DON non-intelligence component, hereinafter referred to as "Entities with DON DCIPS Positions" or (EDDPs).

Final Rating of Record. The summary performance rating, derived from the employee's ratings on his or her performance elements and performance objectives, assigned during the annual evaluation of employee performance that is used for official purposes, including decisions on bonuses as part of the DCIPS annual bonus decision process.

Formal Grievance Process. If the matter is not resolved at the informal process or if the employee chooses to bypass the informal process, a formal grievance may be filed with the appropriate supervisor or management official within 15 days following the incident or from the date the employee became aware of the incident. If the informal process was used, the grievance must be filed no later than 15 days from the conclusion of the process.

Grievance. A grievance is a request by an employee, or a group of employees acting as individuals, for personal relief in a matter of concern or dissatisfaction which is subject to control of agency management and relates to the employment of the employee(s).

Grievance File. A file established by the deciding official and maintained by the servicing EDDP for each grievance.

Grievant. A grievant is a current or former DON DCIPS employee who files a grievance.

Informal Grievance Process. An informal grievance should be submitted to the employee's immediate supervisor for resolution within 5 days following the incident or the date the employee became aware of the incident. If the matter directly involves the immediate supervisor, the grievance may be filed with the next level supervisor for resolution.